



January 11, 2006

HOUSE BILL No. 1010

DIGEST OF HB 1010 (Updated January 9, 2006 1:50 pm - DI 107)

Citations Affected: IC 32-24; IC 36-7; noncode.

Synopsis: Eminent domain. Requires a condemnor, before proceeding to acquire property by use of eminent domain, to: (1) conduct a good faith negotiation with the owner of the property; (2) establish a proposed purchase price; and (3) provide the owner with an appraisal or other evidence used to establish the proposed purchase price. Requires a condemnor, except the department of transportation (department) and certain other persons, to proceed to acquire the property by use of eminent domain not more than two years after the condemnor submits a written acquisition offer to the owner of the property. Requires the department and certain other persons to initiate eminent domain proceedings not more than six years after the department or other person submits a written acquisition offer to the property owner. Requires an appraiser appointed under the eminent domain law to be: (1) licensed or certified as an appraiser; or (2) licensed as a real estate broker. Extends certain deadlines under the eminent domain law. Provides that if a condemnor fails to: (1) take possession of property the condemnor acquired through the use of eminent domain; and (2) adapt the property for the purpose for which it was acquired; not later than six years after the payment of the award or judgment for damages occurs, the condemnor forfeits all rights in the property as if the procedure to take the property had not begun. Establishes procedures for transferring ownership or control of real
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Effective: Upon passage.

Wolkins, Foley, Grubb

January 5, 2006, read first time and referred to Committee on Judiciary.
January 10, 2006, amended, reported — Do Pass.

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property between private persons through the use of eminent domain, including: (1) limiting the use of eminent domain only to certain types of property; (2) requiring that no reasonable alternative to the use of eminent domain exists; (3) requiring that the acquisition of the property will accomplish more than only increasing the property tax base of a government entity; (4) requiring the payment of a premium to acquire certain types of property; and (5) requiring the condemnor to pay the attorney's fees of certain owners. Makes conforming amendments. Specifies that this act applies to all condemnation actions filed on or after November 23, 2005.

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January 11, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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HOUSE BILL No. 1010

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-24-1-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any person
3 that may exercise the power of eminent domain for any public use
4 under any statute may exercise the power only in the manner provided
5 in this article, except as otherwise provided by law.
6 (b) Before proceeding to condemn, the person:
7 (1) may enter upon any land to examine and survey the property
8 sought to be acquired; and
9 (2) must make an effort to purchase for the use intended the land,
10 right-of-way, easement, or other interest, in the property.
11 (c) **The effort to purchase under subsection (b)(2) must include**
12 **the following:**
13 (1) **Conducting good faith negotiations with the owner of the**
14 **property.**
15 (2) **Establishing a proposed purchase price for the property.**

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(3) Providing the owner of the property with an appraisal or other evidence used to establish the proposed purchase price.

~~(c)~~ (d) If the land or interest in the land, or property or right is owned by a person who is an incapacitated person (as defined in IC 29-3-1-7.5) or less than eighteen (18) years of age, the person seeking to acquire the property may purchase the property from the guardian of the incapacitated person or person less than eighteen (18) years of age. If the purchase is approved by the court appointing the guardian and the approval is written upon the face of the deed, the conveyance of the property purchased and the deed made and approved by the court are valid and binding upon the incapacitated person or persons less than eighteen (18) years of age.

~~(d)~~ (e) The deed given, when executed instead of condemnation, conveys only the interest stated in the deed.

~~(e)~~ (f) If property is taken by proceedings under this article, the entire fee simple title may be taken and acquired. ~~if the property is taken for any purpose other than a right-of-way.~~

SECTION 2. IC 32-24-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As a condition precedent to filing a complaint in condemnation, and except for an action brought under IC 8-1-13-19 (repealed), a condemnor may enter upon the property as provided in this chapter and must, at least thirty (30) days before filing a complaint, make an offer to purchase the property in the form prescribed in subsection (c). The offer must be served personally or by certified mail upon:

- (1) the owner of the property sought to be acquired; or
- (2) the owner's designated representative.

(b) If the offer cannot be served personally or by certified mail, or if the owner or the owner's designated representative cannot be found, notice of the offer shall be given by publication in a newspaper of general circulation in the county in which the property is located or in the county where the owner was last known to reside. The notice must be in the following form:

NOTICE

TO: _____, _____ (owner(s)),
 _____ (condemnor) needs your property for
 a _____ (description
 of project), and will need to acquire the following from you:
 _____ (general
 description of the property to be acquired). We have made you a formal
 offer for this property that is now on file in the Clerk's Office in the
 _____ County Court House. Please pick up the offer. If you do not

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respond to this notice or accept the offer by ____ (a date 30 days from 1st date of publication) 20____, we shall file a suit to condemn the property.

Condemnor

The condemnor must file the offer with the clerk of the circuit court with a supporting affidavit that diligent search has been made and that the owner cannot be found. The notice shall be published twice as follows:

(1) One (1) notice immediately.

(2) A subsequent publication at least seven (7) days and not more than twenty-one (21) days after the publication under subdivision (1).

(c) The offer to purchase must be in the following form:

UNIFORM PROPERTY OR EASEMENT
ACQUISITION OFFER

____ (condemnor) is authorized by Indiana law to obtain your property or an easement across your property for certain public purposes. ____ (condemnor) needs (your property) (an easement across your property) for a ____ (brief description of the project) and needs to take ____ (legal description of the property or easement to be taken; the legal description may be made on a separate sheet and attached to this document if additional space is required)

It is our opinion that the fair market value of the (property) (easement) we want to acquire from you is \$ ____, and, therefore, ____ (condemnor) offers you \$ ____ for the above described (property) (easement). You have ~~twenty-five (25)~~ **thirty (30)** days from this date to accept or reject this offer. If you accept this offer, you may expect payment in full within ninety (90) days after signing the documents accepting this offer and executing the easement, and provided there are no difficulties in clearing liens or other problems with title to land. Possession will be required thirty (30) days after you have received your payment in full.

HERE IS A BRIEF SUMMARY OF YOUR OPTIONS AND LEGALLY PROTECTED RIGHTS:

1. By law, ____ (condemnor) is required to make a good faith effort to purchase (your property) (an easement across your property).
2. You do not have to accept this offer.
3. However, if you do not accept this offer, and we cannot come to an agreement on the acquisition of (your property) (an easement),

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_____ (condemnor) has the right to file suit to condemn and acquire the (property) (easement) in the county in which the property is located.

4. You have the right to seek advice of an attorney, real estate appraiser, or any other person of your choice on this matter.

5. You may object to the public purpose and necessity of this project.

6. If _____ (condemnor) files a suit to condemn and acquire (your property) (an easement) and the court grants its request to condemn, the court will then appoint three appraisers who will make an independent appraisal of the (property) (easement) to be acquired.

7. If we both agree with the court appraisers' report, then the matter is settled. However, if either of us disagrees with the appraisers' report to the court, either of us has the right to ask for a trial to decide what should be paid to you for the (property) (easement) condemned.

8. If the court appraisers' report is not accepted by either of us, then _____ (condemnor) has the legal option of depositing the amount of the court appraisers' evaluation with the court. And if such a deposit is made with the court, _____ (condemnor) is legally entitled to immediate possession of the (property) (easement). You may, subject to the approval of the court, make withdrawals from the amount deposited with the court. Your withdrawal will in no way affect the proceedings of your case in court, except that, if the final judgment awarded you is less than the withdrawal you have made from the amount deposited, you will be required to pay back to the court the amount of the withdrawal in excess of the amount of the final judgment.

9. The trial will decide the full amount of damages you are to receive. Both of us will be entitled to present legal evidence supporting our opinions of the fair market value of the property or easement. The court's decision may be more or less than this offer. You may employ, at your cost, appraisers and attorneys to represent you at this time or at any time during the course of the proceeding described in this notice. (The condemnor may insert here any other information pertinent to this offer or required by circumstances or law).

10. If you have any questions concerning this matter you may contact us at:

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(full name, mailing and street address, and phone of the
condemnor)

This offer was made to the owner(s):

_____ of _____,
_____ of _____,
_____ of _____,
_____ of _____,

on the _____ day of _____ 20____,

BY:

(signature)

(printed name and title)

Agent of:

(condemnor)

If you decide to accept the offer of \$ _____ made by
_____ (condemnor) sign your name below and mail
this form to the address indicated above. An additional copy of
this offer has been provided for your file.

ACCEPTANCE OF OFFER

I (We), _____, _____, _____,
owner(s) of the above described property or interest in property,
hereby accept the offer of \$ _____ made by _____
(condemnor) on this _____ day of _____, 20____.

NOTARY'S CERTIFICATE

STATE OF _____)

)SS:

COUNTY OF _____)

Subscribed and sworn to before me this _____ day of
_____, 20____.

My Commission Expires: _____

(Signature)

(Printed) NOTARY PUBLIC

(d) If the condemnor has a compelling need to enter upon property



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to restore utility or transportation services interrupted by disaster or unforeseeable events, the provisions of subsections (a), (b), and (c) do not apply for the purpose of restoration of utility or transportation services interrupted by the disaster or unforeseeable events. However, the condemnor shall be responsible to the property owner for all damages occasioned by the entry, and the condemnor shall immediately vacate the property entered upon as soon as utility or transportation services interrupted by the disaster or unforeseeable event have been restored.

SECTION 3. IC 32-24-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a) Except as provided in section 5.8 of this chapter, this section applies to every person that may exercise the power of eminent domain.**

(b) If:

(1) a person that may exercise the power of eminent domain submits a written acquisition offer to the owner of a parcel of real estate under section 5 of this chapter; and

(2) the owner rejects the offer;

the person shall file a complaint under this article to acquire the parcel by the exercise of eminent domain not more than two (2) years after the date the person submitted the written acquisition offer to the owner.

(c) If a person that may exercise the power of eminent domain fails to meet the requirements described in subsection (b) concerning a parcel of real estate, the person may not initiate an action under this article to acquire the parcel through the power of eminent domain for at least three (3) years after the date the two (2) year period described in subsection (b) expires.

SECTION 4. IC 32-24-1-5.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.8. (a) This section applies only to:**

(1) the Indiana department of transportation when the department seeks to acquire a parcel of land or a property right for the construction, reconstruction, improvement, maintenance, or repair of a:

(A) state highway; or

(B) toll road project or toll bridge; and

(2) any other person that may exercise the power of eminent domain when the person seeks to acquire a parcel of land or a property right to provide a feeder road for an Indiana department of transportation project described in subdivision

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(1).

(b) If:

(1) the Indiana department of transportation or other person described in subsection (a)(2) submits a written acquisition offer to the owner of a parcel of real estate under section 5 of this chapter; and

(2) the owner rejects the offer;

the department or other person shall file a complaint under this article to acquire the parcel by the exercise of eminent domain not more than six (6) years after the date the department or other person submitted the written acquisition offer to the owner.

(c) If the Indiana department of transportation or other person fails to meet the requirements described in subsection (b) concerning a parcel of real estate, the department or other person may not initiate an action under this article to acquire the parcel through the power of eminent domain for at least six (6) years after the date the six (6) year period described in subsection (b) expires.

SECTION 5. IC 32-24-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The notice, upon its return, must show its:

(1) service for ten (10) days; or

(2) proof of publication for three (3) successive weeks in a weekly newspaper of general circulation printed and published in the English language in the county in which the property sought to be acquired is located.

The last publication of the notice must be five (5) days before the day set for the hearing.

(b) The clerk of the court in which the proceedings are pending, upon the first publication of the notice, shall send to the post office address of each nonresident owner whose property will be affected by the proceedings a copy of the notice, if the post office address of the owner or owners can be ascertained by inquiry at the office of the treasurer of the county.

(c) The court, being satisfied of the regularity of the proceedings and the right of the plaintiff to exercise the power of eminent domain for the use sought, shall appoint three (3) disinterested ~~freeholders of the county~~ **appraisers** to assess the damages, or the benefits and damages, as the case may be, that the owner or owners severally may sustain, or be entitled to, by reason of the acquisition. **An appraiser appointed under this chapter must be:**

(1) licensed or certified as an appraiser under IC 25-34.1-8; or

(2) licensed as a broker under IC 25-34.1.

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SECTION 6. IC 32-24-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A defendant may object to the proceedings:

- (1) because the court does not have jurisdiction either of the subject matter or of the person;
- (2) because the plaintiff does not have the right to exercise the power of eminent domain for the use sought; or
- (3) for any other reason disclosed in the complaint or set up in the objections.

(b) Objections under subsection (a) must be:

- (1) in writing;
- (2) separately stated and numbered; and
- (3) filed not later than ~~the first appearance of~~ **thirty (30) days after the date the notice required in section 6 of this chapter is served on** the defendant. **However, the court may extend the period for filing objections upon written motion of the defendant.**

(c) The court may not allow pleadings in the cause other than the complaint, any objections, and the written exceptions provided for in section 11 of this chapter. However, the court may permit amendments to the pleadings.

(d) If an objection is sustained, the plaintiff may amend the complaint or may appeal from the decision in the manner that appeals are taken from final judgments in civil actions. All the parties shall take notice and are bound by the judgment in an appeal.

(e) If the objections are overruled, the court shall appoint appraisers as provided for in this chapter. Any defendant may appeal the interlocutory order overruling the objections and appointing appraisers in the manner that appeals are taken from final judgments in civil actions upon filing with the circuit court clerk a bond:

- (1) with the penalty that the court fixes;
- (2) with sufficient surety;
- (3) payable to the plaintiff; and
- (4) conditioned for the diligent prosecution of the appeal and for the payment of the judgment and costs that may be affirmed and adjudged against the appellants.

The appeal bond must be filed not later than ten (10) days after the appointment of the appraisers.

(f) All the parties shall take notice of and be bound by the judgment in the appeal.

(g) The transcript must be filed in the office of the clerk of the supreme court not later than thirty (30) days after the filing of the

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appeal bond. The appeal does not stay proceedings in the cause.

SECTION 7. IC 32-24-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Not later than ~~ten (10)~~ **thirty (30)** days before a trial involving the issue of damages, the plaintiff shall, and a defendant may, file and serve on the other party an offer of settlement. Not more than five (5) days after the date offer of settlement is served, the party served may respond by filing and serving upon the other party an acceptance or a counter offer of settlement. The offer must state that it is made under this section and specify the amount, exclusive of interest and costs, that the party serving the offer is willing to accept as just compensation and damages for the property sought to be acquired. The offer or counter offer supersedes any other offer previously made under this chapter by the party.

(b) An offer of settlement is considered rejected unless an acceptance in writing is filed and served on the party making the offer before the trial on the issue of the amount of damages begins.

(c) If the offer is rejected, it may not be referred to for any purpose at the trial but may be considered solely for the purpose of awarding costs and litigation expenses under section 14 of this chapter.

(d) This section does not limit or restrict the right of a defendant to payment of any amounts authorized by law in addition to damages for the property taken from the defendant.

(e) This section does not apply to an action brought under IC 8-1-13-19 (repealed).

SECTION 8. IC 32-24-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Except as provided in subsection (b), the plaintiff shall pay the costs of the proceedings.

(b) If there is a trial, the additional costs caused by the trial shall be paid as ordered by the court. However, **except as provided in IC 32-24-4.5-5**, if there is a trial and the amount of damages awarded to the defendant by the judgment, exclusive of interest and costs, is greater than the amount specified in the last offer of settlement made by the plaintiff under section 12 of this chapter, the court shall allow the defendant the defendant's litigation expenses in an amount not to exceed two thousand five hundred dollars (\$2,500).

SECTION 9. IC 32-24-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) If the person seeking to take property under this article fails:

(1) to pay the assessed damages not later than one (1) year after the appraisers' report is filed, if exceptions are not filed to the

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report;

(2) to pay:

(A) the damages assessed if exceptions are filed to the appraisers' report and the exceptions are not sustained; or

(B) the damages assessed and costs if exceptions are filed to the appraisers' report and the exceptions are sustained;

not later than one (1) year after the entry of the judgment, if an appeal is not taken from the judgment;

(3) to pay the damages assessed or the judgment rendered in the trial court not later than one (1) year after final judgment is entered in the appeal if an appeal is taken from the judgment of the trial court; or

(4) to take possession of the property and adapt the property for the purpose for which it was acquired not later than ~~five (5)~~ **six (6)** years after the payment of the award or judgment for damages; ~~except where a fee simple interest in the property is authorized to be acquired and is acquired;~~

the person seeking to acquire the property forfeits all rights in the property as fully and completely as if the procedure to take the property had not begun.

(b) An action to declare a forfeiture under this section may be brought by any person having an interest in the property sought to be acquired, or the question of the forfeiture may be raised and determined by direct allegation in any subsequent proceedings, by any other person to acquire the property for a public use. In the subsequent proceedings the person seeking the previous acquisition or the person's proper representatives, successors, or assigns shall be made parties.

SECTION 10. IC 32-24-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4.5. Procedures for Transferring Ownership or Control of Real Property Between Private Persons

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to a condemnor that exercises the power of eminent domain:

(1) to acquire a parcel of real property from a private person; and

(2) with the intent of ultimately transferring the ownership or control of the parcel to another private person.

(b) This chapter only applies to the Indiana department of transportation when the department exercises the power of eminent domain:

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(1) to acquire a parcel of real property from a private person;
and

(2) with the intent of ultimately transferring the ownership of
the parcel to another private person.

Sec. 2. As used in this chapter, "condemnor" means a person
authorized to exercise the power of eminent domain.

Sec. 3. A condemnor may acquire a parcel of real property by
the exercise of eminent domain under this chapter only if all the
following conditions are met:

(1) At least one (1) of the following conditions exists on the
parcel of real property:

(A) The parcel contains a structure that, because of:

(i) physical condition;

(ii) use; or

(iii) occupancy;

constitutes a private or public nuisance.

(B) The parcel contains a dwelling that is unfit for human
habitation because the dwelling:

(i) is dilapidated;

(ii) is unsanitary;

(iii) is unsafe;

(iv) is vermin infested; or

(v) does not contain the facilities or equipment required
by applicable housing codes.

(C) The parcel contains a structure that is:

(i) a fire hazard; or

(ii) otherwise dangerous to the safety of persons or
property.

(D) The parcel contains a structure that is not fit for its
intended use because:

(i) the utilities;

(ii) the sewerage;

(iii) the plumbing;

(iv) the heating; or

(v) any other similar services or facilities;

have been disconnected, destroyed, removed, or rendered
ineffective.

(E) The parcel:

(i) is located in a predominantly developed
neighborhood;

(ii) is vacant or unimproved; and

(iii) because of neglect or lack of maintenance, has

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become a place for the accumulation of trash and debris
or become infested by rodents or other vermin.

(F) The parcel and any improvements on the parcel are the
subject of tax delinquencies that exceed the value of the
parcel and its improvements.

(G) The parcel is the subject of a health or housing code
violation that has not been substantially corrected within
one (1) year after the date the owner received notice to
correct the violation.

(H) The parcel poses a threat to public health or safety
because the parcel contains environmental contamination.

(I) The parcel has been abandoned.

(2) A reasonable alternative to the exercise of eminent
domain:

(A) to acquire the parcel of real property; and

(B) that would not exceed by more than five percent (5%)
the total cost of acquiring all the parcels of real property
that are necessary to complete the project that includes the
parcel of real property described in subdivision (1);

is not available to the condemnor.

(3) The acquisition of the parcel of real property through the
exercise of eminent domain is expected to accomplish more
than only increasing the property tax base of a government
entity.

**Sec. 4. Notwithstanding IC 32-24-1, a condemnor that acquires
a parcel of real property through the exercise of eminent domain
under this chapter shall compensate the owner of the parcel as
follows:**

(1) For agricultural land:

(A) either:

(i) payment to the owner equal to one hundred
twenty-five percent (125%) of the fair market value of
the parcel as determined under IC 32-24-1; or

(ii) transfer to the owner of an ownership interest in
agricultural land that is equal in acreage to the parcel
acquired through the exercise of eminent domain;

(B) payment of any other damages as determined under
IC 32-24-1; and

(C) payment of the owner's relocation costs, if any.

(2) For a parcel of real property occupied by the owner as a
residence:

(A) payment to the owner equal to one hundred fifty

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percent (150%) of the fair market value of the parcel as determined under IC 32-24-1;

(B) payment of any other damages as determined under IC 32-24-1; and

(C) payment of the owner's relocation costs, if any.

(3) For a parcel of real property not described in subdivision (1) or (2):

(A) payment to the owner equal to one hundred percent (100%) of the fair market value of the parcel as determined under IC 32-24-1;

(B) payment of any other damages as determined under IC 32-24-1; and

(C) payment of the owner's relocation costs, if any.

Sec. 5. If the owner of a parcel of real property incurs attorney's fees because a condemnor seeks to acquire the parcel through the exercise of eminent domain under this chapter, the condemnor shall reimburse any reasonable attorney's fees incurred by the owner that exceed one thousand dollars (\$1,000).

SECTION 11. IC 36-7-14-32.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32.5. (a) The commission may acquire a parcel of real property by the exercise of eminent domain when the real property has all of the following characteristics:

(1) The real property is an unsafe building (as defined in ~~IC 36-7-9-4~~) and is subject to an order issued under ~~IC 36-7-9-5~~.

(2) The owner of the real property has not complied with the order issued under ~~IC 36-7-9-5~~.

(3) The real property is not being used as a residence or for a business enterprise:

meets at least one (1) of the conditions described in IC 32-24-4.5-3(1).

~~(4)~~ (2) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

~~(5)~~ (3) The ~~unsafe~~ condition of the real property has a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or the commission's designated hearing examiner shall conduct a public meeting to determine whether a parcel of real property has the characteristics set forth in subsection (a). Each person holding a fee or life estate interest of record in the property must

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be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, the commission shall adopt a resolution setting out the commission's determination to exercise that power and directing the commission's attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court with jurisdiction in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-24.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.

(2) Sale to a family whose income is at or below the county's median income for families.

(3) Sale or grant to a neighborhood development corporation with a condition in the granting clause of the deed requiring the nonprofit development corporation to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the unit's median income for families.

(4) Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the unit's median income for families.

(f) A neighborhood development corporation or nonprofit corporation that receives property under this section must agree to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the corporation.

SECTION 12. IC 36-7-15.1-22.5, AS AMENDED BY P.L.185-2005, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22.5. (a) The commission may acquire a parcel of real property by the exercise of eminent domain when the following conditions exist:

(1) The real property is an unsafe premises (as defined in IC 36-7-9) and is subject to an order issued under IC 36-7-9 or a notice of violation issued by the county's health and hospital corporation under its powers under IC 16-22-8.

(2) The real property is not being used as a residence or for a business enterprise.

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meets at least one (1) of the conditions described in IC 32-24-4.5-3(1).

~~(2)~~ (2) The real property is capable of being developed or rehabilitated to provide affordable housing for low or moderate income families or to provide other development that will benefit or serve low or moderate income families.

~~(3)~~ (3) The real property suffers from one (1) or more of the conditions listed in IC 36-7-1-3, resulting in a negative impact on the use or value of the neighboring properties or other properties in the community.

(b) The commission or its designated hearing examiner shall conduct a public meeting to determine whether the conditions set forth in subsection (a) exist relative to a parcel of real property. Each person holding a fee or life estate interest of record in the property must be given notice by first class mail of the time and date of the hearing at least ten (10) days before the hearing, and is entitled to present evidence and make arguments at the hearing.

(c) If the commission considers it necessary to acquire real property under this section, it shall adopt a resolution setting out its determination to exercise that power and directing its attorney to file a petition in the name of the city on behalf of the department in the circuit or superior court in the county.

(d) Eminent domain proceedings under this section are governed by IC 32-24.

(e) The commission shall use real property acquired under this section for one (1) of the following purposes:

(1) Sale in an urban homestead program under IC 36-7-17.

(2) Sale to a family whose income is at or below the county's median income for families.

(3) Sale or grant to a neighborhood development corporation or other nonprofit corporation, with a condition in the granting clause of the deed requiring the nonprofit organization to lease or sell the property to a family whose income is at or below the county's median income for families or to cause development that will serve or benefit families whose income is at or below the county's median income for families. However, a nonprofit organization is eligible for a sale or grant under this subdivision only if the county fiscal body has determined that the nonprofit organization meets the criteria established under subsection (f).

(4) Any other purpose appropriate under this chapter so long as it will serve or benefit families whose income is at or below the county's median income for families.

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1 (f) The county fiscal body shall establish criteria for determining the
2 eligibility of neighborhood development corporations and other
3 nonprofit corporations for sales and grants of real property under
4 subsection (e)(3). A neighborhood development corporation or other
5 nonprofit corporation may apply to the county fiscal body for a
6 determination concerning the corporation's compliance with the criteria
7 established under this subsection.

8 (g) A neighborhood development corporation or nonprofit
9 corporation that receives property under this section must agree to
10 rehabilitate or otherwise develop the property in a manner that is
11 similar to and consistent with the use of the other properties in the area
12 served by the corporation.

13 SECTION 13. [EFFECTIVE UPON PASSAGE] **This act applies**
14 **to all condemnation actions filed on or after November 23, 2005.**

15 SECTION 14. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1010, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 15, delete "Submitting" and insert "**Establishing**".

Page 1, line 15, delete "to the owner of" and insert "**for**".

Page 6, line 29, delete "five (5)" and insert "**three (3)**".

Page 7, line 42, delete "professionally engaged in making appraisals;" and insert "**licensed or certified as an appraiser under IC 25-34.1-8;**".

Page 8, line 1, delete "trained as an appraiser and".

Page 8, line 15, strike "the first appearance of" and insert "**thirty (30) days after the date the notice required in section 6 of this chapter is served on**".

Page 12, line 16, delete "the cost of acquiring the parcel" and insert "**by more than five percent (5%) the total cost of acquiring all the parcels of real property that are necessary to complete the project that includes the parcel of real property described in subdivision (1);**".

Page 12, delete lines 17 through 18.

Page 12, line 21, delete "will" and insert "**is expected to**".

Page 12, line 35, delete "the" and insert "**any other**".

Page 12, line 35, delete ", if any,".

Page 12, line 38, delete ":" and insert "**as a residence:**".

Page 12, line 42, delete "the" and insert "**any other**".

Page 12, line 42, delete ", if any,".

Page 13, line 8, delete "the" and insert "**any other**".

Page 13, line 8, delete ", if any,".

Page 13, line 14, after "any" insert "**reasonable**".

and when so amended that said bill do pass.

(Reference is to HB 1010 as introduced.)

FOLEY, Chair

Committee Vote: yeas 10, nays 0.

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